

EXHIBIT 9

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - -x

5 SERGEY LEONTIEV,

6 Plaintiff,

Case No. 16-cv-3595

7 -against-

8 ALEXANDER VARSHAVSKY,

9 Defendant.

10 - - - - -x

11 January 5, 2017

12 9:41 a.m.

13
14
15 Videotaped deposition of
16 ALEXANDER VARSHAVSKY, taken by Plaintiff,
17 pursuant to Notice, held at the offices of
18 Gibson, Dunn & Crutcher LLP, 200 Park
19 Avenue, New York, New York, before
20 Sharon Lengel, a Registered Professional
21 Reporter, Certified Realtime Reporter, and
22 Notary Public of the State of New York.

23
24 * * *
25

A P P E A R A N C E S:

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BY: SEAN HECKER, ESQ.

ALISA MELEKHINA, ESQ.

ALSO PRESENT:

WAYNE SALINE, Videographer

ROMAN SANIKOV, Interpreter

ALEXANDER KULNEV, ESQ.

* * *

1 VARSHAVSKY

2 statements in it to be true?

3 A. Yes.

4 Q. Let me direct your attention to
5 paragraph 32, which is on page 7 of the
6 document.

7 The second sentence of
8 paragraph 32 reads, "As of August 1, 2016,
9 the total debt owed to Avilon was
10 approximately 29.6 million, including
11 interest, and the total debt owed to
12 Mr. Avagumyan was approximately
13 \$28 million, including interest."

14 Do you see that?

15 A. Yes.

16 MR. HECKER: You need to answer
17 verbally.

18 A. Yes.

19 Q. Is the statement that the total
20 debt owed to Avilon was approximately
21 29.6 million, including interest, a true
22 statement?

23 A. Yes.

24 Q. Is any part of that
25 \$29.6 million owed to you personally?

1 VARSHAVSKY

2 A. No.

3 Q. Do you have any assignment from
4 Avilon of any rights to collect that
5 29.6 million?

6 A. No.

7 Q. Is the statement that
8 Mr. Avagumyan was owed approximately 28
9 million, including interest, a true
10 statement?

11 MR. HECKER: Why don't you --
12 use the interpreter if you need to.

13 A. Yes. Yes.

14 Q. And are you owed any portion of
15 that \$28 million personally?

16 A. No.

17 Q. Do you have any assignment from
18 Mr. Avagumyan to pursue the claim for the
19 \$28 million?

20 A. No.

21 Q. Okay. Are you personally owed
22 any money by Mr. Leontiev?

23 A. No. No.

24 Q. Are you personally owed any
25 money from Probusinessbank?

1 VARSHAVSKY

2 A. No.

3 (Plaintiff's Exhibit 60, A
4 claim, was hereby marked for
5 identification, as of this date.)

6 Q. Mr. Varshavsky, I've handed you
7 what's been marked as Exhibit 60, which is
8 the claim that was filed in this action in
9 the Southern District of New York.

10 Do you have that in front of
11 you?

12 A. Yes.

13 Q. Did you had occasion to look at
14 that document?

15 A. Yes.

16 Q. Okay. I'm going to direct your
17 attention to paragraph 4. There are three
18 sentences in paragraph 4. I want to
19 direct your attention to the first one.
20 The first one says, "Mr. Leontiev owes
21 Mr. Varshavsky nothing."

22 Do you see that?

23 A. Yes.

24 Q. Is that a true statement?

25 A. Personally.

1 VARSHAVSKY

2 Q. Personally, yes.

3 A. No. I see the statement.

4 Q. There's too many "nos" in that
5 answer. Let me see if we can get this
6 straight.

7 Is the statement that
8 "Mr. Leontiev owes Mr. Varshavsky nothing"
9 a true statement?

10 A. Yes.

11 Q. Thank you.

12 MR. HECKER: Are we done with
13 this document?

14 MR. WEIGEL: You can set it
15 aside.

16 (Plaintiff's Exhibit 61, An
17 amended answer, was hereby marked for
18 identification, as of this date.)

19 Q. Do you have Exhibit 61 in front
20 of you?

21 A. Yes.

22 Q. Exhibit 61 is the answer that
23 was filed -- the amended answer that was
24 filed on your behalf in this current
25 action that we're sitting here today in --

1 VARSHAVSKY

2 Q. Anyone else?

3 A. Yes. Some -- some people from
4 Russia as well.

5 Q. Can you give me their names?

6 A. Yes. Anna Babkina, Sergey
7 Sturov. I don't remember another name.

8 Q. Do you know who Diana Karapetyan
9 is?

10 A. No.

11 Q. Was she one of the individuals
12 who asked you to negotiate on his or her
13 behalf?

14 MR. HECKER: Objection to form.
15 Foundation. Go ahead.

16 A. I don't know her.

17 Q. Okay. Did any of the
18 individuals who you -- who asked you to
19 negotiate on their behalf ever give you an
20 assignment of their claims against any
21 entity?

22 A. No.

23 MR. HECKER: Objection. You
24 need to give me a second --

25 THE WITNESS: Oh, okay.

1 VARSHAVSKY

2 Aylon, he" -- meaning yourself -- "had
3 authority to negotiate for repayment of
4 Aylon's loans on behalf of Aylon."

5 Do you see that?

6 A. Yes.

7 Q. Were you the president of
8 Aylon?

9 A. Yes.

10 Q. Are you currently the president
11 of Aylon?

12 A. Yes.

13 Q. When did you become the
14 president of Aylon?

15 A. Since the first day.

16 Q. Did you have any written
17 authorization from Aylon to negotiate for
18 the repayment of Aylon's loans on behalf
19 of Aylon?

20 MR. HECKER: Objection to form.
21 Foundation. You can answer.

22 A. No.

23 MR. WEIGEL: What's the
24 foundation objection?

25 MR. HECKER: It presupposes that

1 VARSHAVSKY

2 MR. HECKER: Objection to form.
3 I'm going to instruct you not to
4 answer that question.

5 MR. WEIGEL: On what basis?

6 MR. HECKER: What documents we
7 showed him during his preparation is
8 work product. It's the same
9 instruction you gave your client. If
10 you want to ask him if he remembers
11 seeing this document at any point in
12 time, you can ask him that question.

13 MR. WEIGEL: Sure.

14 Q. Have you seen this document at
15 any point in time?

16 A. Specifically this one, no. I
17 cannot recall. Maybe -- maybe during the
18 preparation, I saw the document. But I do
19 not -- I do not recall.

20 Q. Okay. Were you aware that New
21 York Motors Moscow and Ambika Invest --
22 made a loan to Ambika Investments Limited
23 in -- on or about December 18, 2008?

24 A. Yes.

25 Q. And were you aware that that

1 VARSHAVSKY

2 loan was documented in writing?

3 A. Yes.

4 Q. Did you -- did you ever review
5 the loan agreement?

6 A. No.

7 Q. Who would have been responsible
8 for making sure that the loan was properly
9 documented?

10 A. Our CFO.

11 Q. And who is that?

12 A. Irina Monakhova.

13 Q. And who negotiated the terms of
14 the loan with Ambika?

15 A. Me.

16 Q. You personally?

17 A. Yes.

18 Q. Who did you negotiate those
19 terms with?

20 A. With Mr. Zheleznyak.

21 Q. Who is Mr. Zheleznyak?

22 A. He's the partner of
23 Mr. Leontiev.

24 Q. Does he have a role at
25 Probusinessbank? Did he have a role at

1 VARSHAVSKY

2 takeover of the bank and --

3 A. No. Before they stopped paying
4 the interest and repaying the loan.

5 Q. When did that happen?

6 A. In August 2015.

7 Q. Before that, before August 2015,
8 you had no idea what Ambika was?

9 A. Absolutely.

10 Q. Did you do any investigation
11 into Ambika's financial condition before
12 you lent it -- before your company lent it
13 \$19.9 million?

14 A. Me personally, not.

15 Q. Okay. Did anybody -- well,
16 first off, what is -- what is New York
17 Motors Moscow?

18 A. It is the company which sells
19 cars.

20 Q. What is its relationship to
21 Avilon?

22 A. It was re-branding. Before, it
23 was New York Motors Moscow. Then it's
24 Avilon.

25 Q. All right. So New York Motors

1 VARSHAVSKY

2 Moscow and Avilon are the same company.

3 A. The same. The same.

4 Q. Okay. Now I understand. Thank
5 you.

6 If I use Avilon for New York
7 Motors, will you understand what I'm
8 meaning?

9 A. Yeah, absolutely.

10 Q. Okay. Who at Avilon was
11 responsible for investigating the
12 financial condition of Ambika prior to
13 making a loan?

14 MR. HECKER: Objection to form.
15 Foundation. You can answer.

16 A. Finance department and the legal
17 department.

18 Q. And who in the finance
19 department?

20 A. Irina Monakhova.

21 Q. Did you ever speak to
22 Ms. Monakhova about whether investing in
23 Ambika was a good idea?

24 A. No.

25 Q. How did you make the decision to

1 VARSHAVSKY

2 make the loan to Ambika?

3 A. As I said before, all the
4 decision been made by -- by finance
5 department, not by me. I'm only
6 negotiating the terms. The rest, it go to
7 my legal people and finance people.

8 Q. What terms did you negotiate?

9 A. I don't remember right now.

10 Q. But generally, what were the
11 types of terms that you negotiated?

12 A. What was in the beginning,
13 Avilon was always lending money to
14 Probusinessbank. And the terms was -- the
15 general terms, like, on the date of the
16 negotiation, the -- the rate, the interest
17 rate.

18 So the one point, Zheleznyak
19 came to me, and he said, "I, with
20 Mr. Leontiev, we opened the company, which
21 also in our group, but it has nothing to
22 do with the bank. It's offshore company.
23 If you want to have the higher interest
24 rate, you put your money there." I said,
25 "Okay. What's the difference?" He said,

1 VARSHAVSKY

2 "You will have more -- about four, five
3 percent more than you put your money in
4 the bank." I said, "Okay. Then I will
5 instruct my finance department, and I will
6 instruct my legal department. You talk to
7 them. If they feel comfortable, do it."

8 Q. Did you ever discuss any terms
9 with any employee of Aylon or any officer
10 of Aylon?

11 MR. HECKER: Objection to form.
12 You may answer.

13 Q. Excuse me. I misspoke.
14 Did you ever discuss any terms
15 with any officer or employee of Ambika?

16 A. No.

17 Q. Okay. Did you ever visit
18 Ambika's offices?

19 A. No.

20 Q. Do you know if anyone from
21 Aylon ever visited Ambika's offices?

22 MR. HECKER: Objection to form.
23 Foundation.

24 A. I don't know. I don't think so.

25 Q. Were -- is it fair to say that

1 VARSHAVSKY

2 MR. HECKER: That's one of the
3 easy ones.

4 MR. WEIGEL: I know. I know.
5 I'm just having real trouble today.

6 Q. Do you see that?

7 A. Yes.

8 Q. Okay. Was the \$19.9 million put
9 in a foreign currency deposit at
10 Probusinessbank for a year at 14 percent?

11 A. If it says here, yes, probably
12 yes.

13 Q. Okay. And does Exhibit 7, which
14 is the loan agreement between Avilon and
15 Ambika, represent the \$19.9 million
16 investment at 14 percent that's referred
17 to in Exhibit 62?

18 MR. HECKER: Objection to form.

19 A. Maybe.

20 Q. Are you aware of another
21 \$19.9 million investment at 14 percent
22 that was made on December 18, 2008?

23 A. I will explain you. I'm not
24 dealing with any financial or legal terms.
25 I mean, my role is business development

1 VARSHAVSKY

2 and strategy. The turnover of Avilon
3 close to \$2 billion. I don't remember 19,
4 15, 12 -- I don't remember.

5 Q. Okay. Well, as you sit here
6 today, do you have any reason to believe
7 that the \$19.9 million that's reflected in
8 the loan agreement that is Exhibit 7 is
9 the same \$19.9 million that came from
10 Sveta and was to be placed in a U.S.
11 foreign currency deposit at
12 Probusinessbank, as set forth in
13 Exhibit 62?

14 MR. HECKER: Objection to form
15 of the question.

16 A. Possibly.

17 Q. As you sit here today, do you
18 have any reason to think that that's not
19 the case?

20 MR. HECKER: Same objection.
21 You can answer.

22 A. No.

23 Q. Okay.

24

25

1 VARSHAVSKY

2 Q. Okay.

3 (PPlaintiff's Exhibit 64, An
4 email, Bates SL0033715, was hereby
5 marked for identification, as of this
6 date.)

7 Q. Mr. Varshavsky, I've handed you
8 what's been marked as Exhibit 64.

9 Do you have that in front of
10 you?

11 A. Yes.

12 Q. And this is an email from
13 Ms. Nazanskaya to Ms. Monakhova.

14 Do you see that?

15 A. Yes.

16 Q. And she writes, "On
17 December 20th, the transit loan for
18 19.9 million will expire."

19 Do you understand that to refer
20 to the loan to Avilon?

21 A. Yes.

22 Q. By Avilon to Ambika?

23 A. Yes.

24 Q. "The rate Probusinessbank is
25 offering for the next year is 11 percent.

1 VARSHAVSKY

2 The existing rate is 15 percent."

3 Do you see that?

4 A. Yes.

5 Q. Were you aware that

6 Probusinessbank was proposing to reduce
7 the interest rate on the loan?

8 MR. HECKER: Objection to form
9 of the question.

10 A. It says here what I know and I
11 agreed. Probably yes.

12 Q. Okay. It says here that "Yanna
13 Krisiuk" --

14 A. Krisiuk.

15 Q. -- "Krisiuk reported that
16 Alexander is aware of this and agreed to
17 this rate on November 30th."

18 Is that you, the Alexander she's
19 referring to there?

20 A. Yes.

21 Q. Okay. And did you, in fact,
22 agree to a reduction of the rate from
23 15 percent to 11 percent?

24 A. Probably, yes.

25 Q. Okay. And up top, Ms. Monakhova

1 VARSHAVSKY

2 Q. Okay. Are you -- did you
3 approve the placement of 7 and a half
4 million dollars at Probusinessbank for
5 11 percent?

6 MR. HECKER: Objection to form.
7 Foundation.

8 A. I only approving the terms. I'm
9 not approving where the terms -- my role
10 is approve the terms. If 11 percent, 12,
11 which I'm negotiating with the -- with the
12 Zheleznyak. The rest, it goes to our
13 people. From his side, it goes to
14 Krisiuk. From my side, it goes to
15 Monakhova. And they deal between them --
16 between -- they're dealing between them.
17 My role only approve the terms. That's
18 it.

19 MR. HECKER: Bob, when you reach
20 a logical breaking point -- we've been
21 going about an hour -- can we take a
22 short break?

23 MR. WEIGEL: Sure.

24 MR. HECKER: Thanks.

25 THE VIDEOGRAPHER: This marks

1 VARSHAVSKY

2 the end of Tape No. 1 in the
3 videotaped deposition of Alexander
4 Varshavsky. We're going off the
5 record. The time is 10:47.

6 (Recess)

7 THE VIDEOGRAPHER: This marks
8 the beginning of Tape No. 2 in the
9 videotaped deposition of Alexander
10 Varshavsky. We're going on the
11 record. The time is 11:03.

12 BY MR. WEIGEL:

13 Q. Mr. Varshavsky, before the
14 break, we were looking at -- we looked at
15 Exhibit 66.

16 Do you have that in front of
17 you?

18 A. Yes.

19 Q. It's dated September 1, 2011,
20 and it's an email from Ms. Nazanskaya, and
21 it says, "The rate Probusinessbank is
22 offering for the placement of the newly
23 received 6,625,000 is 11 percent, same as
24 under existing technical loans."

25 Do you see that?

1 VARSHAVSKY

2 A. Yes.

3 Q. Okay. I've handed you
4 Exhibit 12.

5 Have you ever seen that document
6 before?

7 A. Probably, yes, but I don't
8 recall.

9 Q. Okay. And that's a loan
10 agreement dated September 1, 2011, between
11 Avilon and Ambika Investments Limited for
12 6,625,000 at 11 percent.

13 Do you see that?

14 A. Yes.

15 Q. Okay. Is that the same loan
16 that Ms. Nazanskaya was referencing on
17 Exhibit 66?

18 A. Possible.

19 Q. Okay. Do you have any reason to
20 doubt that it's a different -- to think
21 it's a different loan?

22 A. I don't know.

23 Q. Okay. As you sit here today,
24 you have no reason to believe this is not
25 the same loan, the same placement; is that

1 VARSHAVSKY

2 correct?

3 MR. HECKER: Objection to form.

4 You can answer.

5 A. Our finance department, they do
6 the -- they loan money to the bank or to
7 Ambika almost every month. So I don't
8 know if it's the same amount, it's not the
9 same amount. But the number is the same.
10 But if it's the same money or not, I
11 cannot tell.

12 Q. Okay. Did you negotiate the
13 rate of 11 percent on this 6 point --

14 A. I always negotiating rates.

15 Q. Okay. And you always negotiated
16 those rates with Mr. Zheleznyak?

17 A. Only.

18 Q. Okay. I've handed you
19 Exhibit 13.

20 And do you see that is a
21 guarantee by Probusinessbank of the loan
22 from Avilon to Ambika?

23 A. Yes.

24 Q. The same loan that we just
25 looked at that was Exhibit 12?

1 VARSHAVSKY

2 A. The same amount.

3 Q. Okay. Did you negotiate this
4 guarantee with Mr. Zheleznyak?

5 A. No.

6 Q. Did you insist upon a bank
7 guarantee for the loans you made to
8 Ambika?

9 MR. HECKER: Objection to the
10 form.

11 A. Not me personally.

12 Q. Did you insist upon a bank
13 guarantee for the loans that Avilon made
14 to Ambika?

15 A. No. I already explained several
16 times. I mean, it's not my role.

17 Q. Okay.

18 A. I'm only negotiating the terms
19 and, specifically, what I did, I agree
20 with Mr. Zheleznyak two different terms.
21 One term is for bank. One is for the
22 outside of bank offshore company, which
23 belongs to him and Leontiev. So two
24 different terms. That's what I negotiate
25 with Zheleznyak, and I pass all this

1 VARSHAVSKY

2 information to Irina Monakhova, and the
3 rest she's dealing.

4 Q. When did you first meet
5 Mr. Leontiev?

6 A. I met him a long time ago, first
7 time at Zheleznyak's birthday. But we
8 didn't even speak -- it was -- I don't
9 know -- 15, 20 years ago maybe. And the
10 first time when we was talking, I met him
11 in my office. It was in August 2015.

12 Q. Okay. Before August 2015, you
13 never discussed Aviron's lending to Ambika
14 or its business dealings with
15 Probusinessbank with Mr. Leontiev; is that
16 correct?

17 A. No.

18 Q. When did you first discuss
19 Aviron's business dealings with
20 Mr. Leontiev?

21 A. In my office when I met him.

22 Q. And when was that?

23 A. In August 2015.

24 Q. All right. I may have asked a
25 bad question.

1 VARSHAVSKY

2 Is it accurate to say that,
3 prior to August 2015, you had never
4 discussed Aviron's business with
5 Mr. Leontiev?

6 A. Never.

7 Q. Okay.

8 (Pause)

9 Q. Do you recognize Exhibit 15?

10 A. Yes, probably.

11 Q. What is it?

12 A. It's agreement.

13 Q. Were you involved in any way in
14 negotiating Plaintiff's Exhibit 14 -- 15?

15 MR. HECKER: Objection to form.

16 A. Can you repeat your question,
17 please?

18 Q. Were you involved in any way in
19 negotiating the agreement that's reflected
20 on Plaintiff's Exhibit 15?

21 A. Terms, probably yes, as I said
22 before. I'm only involved in the terms.

23 Q. Were you aware that in 2014, the
24 loans to Ambika from Aviron were
25 consolidated into one loan agreement?

1 VARSHAVSKY

2 A. To what?

3 Q. Were you aware that in 2014, the
4 loans from Aviron to Ambika were
5 consolidated into one -- into one loan
6 agreement?

7 A. No.

8 Q. Do you know why that was done?

9 MR. HECKER: Objection to form.

10 A. I don't even know.

11 Q. Okay. Exhibit 47 is a
12 promissory note in the amount of
13 \$1 million issued by Vennop Trading to
14 Ms. Karapetyan.

15 Do you see that?

16 A. Yes.

17 Q. Were you at any point in time
18 trying to collect that loan?

19 A. Never.

20 Q. Do you know why your counsel
21 provided that loan to -- note to us as one
22 of the loans you were trying to collect?

23 MR. HECKER: Objection to the
24 form of the question. I'll instruct
25 you not to disclose any discussions

1 VARSHAVSKY

2 you've had with counsel. But if you
3 have an understanding, you could
4 answer the question.

5 A. As far as I remember, that
6 information being supplied to my lawyer
7 from -- Probusinessbank lawyer. His name
8 is Shamis Maxim, Maxim Shamis, and
9 probably accidentally, they supplied with
10 some wrong party which not involved in our
11 case.

12 Q. Okay. Do you know -- you were
13 trying to collect at one point in time
14 \$100 million from Mr. Leontiev; is that
15 correct?

16 MR. HECKER: Objection to the
17 form. You can answer.

18 A. Yes, but it's not accurate
19 number. We was always talking around,
20 because we don't know what's the -- the
21 amount, what's the interest. But we said
22 it's around 100 million.

23 Q. Okay. Do you know if these
24 \$4 million worth of promissory notes were
25 included in that hundred million dollars?

1 VARSHAVSKY

2 MR. HECKER: Objection to form.

3 This?

4 A. Not -- I have no idea who this
5 person is. I have no instruction from
6 these people to collect their money. So
7 that -- and they not on our list.

8 Q. Okay. So if this \$4 million was
9 included in the money you were trying to
10 collect, that was just a mistake?

11 MR. HECKER: Objection to form.
12 Foundation.

13 A. I never tried -- was trying to
14 collect that money.

15 Q. Okay.

16 (Plaintiff's Exhibit 67, A
17 service agreement, Bates AVPE0003173,
18 was hereby marked for identification,
19 as of this date.)

20 A. (Witness perusing document.)

21 Q. Mr. Varshavsky, have you had a
22 chance to look at Exhibit 67?

23 A. Yes.

24 Q. And do you recognize that?

25 A. Yes.

1 VARSHAVSKY

2 Q. And what is it?

3 A. It's a service agreement.

4 Q. Between European Realty Corp and
5 Avilon; is that correct?

6 A. Yes.

7 Q. And this states that European
8 Realty is going to provide a foreign
9 specialist to Avilon in exchange for
10 consideration?

11 A. Yes.

12 Q. And you are the specialist that
13 was being provided by European Realty; is
14 that correct?

15 A. I don't know. Maybe.

16 MR. HECKER: Do you want him to
17 read the whole agreement?

18 Q. You can take your time. But if
19 you look at paragraph 3185 -- page 3185 at
20 the bottom, you get to Annex 1 of the
21 service agreement on provision personnel.

22 MR. HECKER: Okay. Why don't
23 you take some time to familiarize
24 yourself with the agreement.

25 THE WITNESS: Okay. 31.

1 VARSHAVSKY

2 MR. HECKER: He's pointing to
3 the page, the Bates number at the
4 bottom right.

5 THE WITNESS: 3185?

6 Q. It's in Russian and in English.
7 It's been tran -- no, I guess it's not
8 been translated. It was originally in
9 Russian.

10 MR. HECKER: Yeah.

11 A. (Witness perusing document.)

12 MR. HECKER: What's the
13 question?

14 Q. Are you through it?

15 A. Yes.

16 Q. Okay. This is an agreement
17 whereby your services are being provided
18 to Avilon by European Realty; is that
19 correct?

20 MR. HECKER: Objection.

21 A. Yes.

22 MR. HECKER: Objection to form.
23 You can answer.

24 Q. And do you know why your
25 employment was structured in this fashion?

1 VARSHAVSKY

2 A. I have no idea.

3 Q. And do you see Annex 1 to the
4 service agreement on Provision of
5 Personnel No. 45?

6 Do you see that, page AVPE3185?

7 A. Yes.

8 Q. And that surname of specialist,
9 that is you there, Alexander Varshavsky;
10 correct?

11 A. Correct.

12 Q. Okay. It says here that "The
13 specialist work regime consists not more
14 than four working hours per day or
15 20 working hours per week with five
16 working day weeks and two days off."

17 Did you observe that contractual
18 provision?

19 MR. HECKER: Objection to form.
20 Foundation.

21 A. I didn't see that agreement
22 before.

23 Q. You've never seen this agreement
24 before?

25 A. No.

1 VARSHAVSKY

2 Q. Do you know if there was a tax
3 reason for doing it this way, setting up
4 your employment this way?

5 A. I don't think it's -- has
6 something to do with the tax. It's
7 probably to have the working visa. I
8 don't think it's --

9 Q. It goes on to say, "The
10 specialist shall perform the following
11 positions' duties: Development proper and
12 establish new relationship with state
13 organization key accounts as a customers
14 representative, manage company's
15 reputation amongst government and public
16 affairs audiences, create and manage
17 priority events which build and improve
18 customers, customer companies' brand and
19 reputations."

20 Do you see that?

21 A. Yes.

22 Q. Were those duties that you
23 performed for Avilon?

24 A. Yes.

25 Q. Did you perform other duties for

1 VARSHAVSKY

2 payments and repayments is an accurate
3 statement?

4 MR. HECKER: Objection. Asked
5 and answered.

6 A. Technically, yes.

7 Q. Okay. It says, "The last loan
8 repayment of \$17 million was made by the
9 bank three months ago."

10 Is that an accurate statement?

11 A. I think yes.

12 Q. It goes on to say, "The funds
13 were used by the bank to 1" -- or dash --
14 "finance the bank's construction
15 projects," dash, "interest payments on
16 other loans, loan repayments and
17 expenses," and dash, "bad debts purchase
18 and costs of arbitrage."

19 Do you see that?

20 A. Yes.

21 Q. Was that an accurate statement?

22 A. Yes. One of -- one of the all
23 the -- the purpose what they was raising
24 money for.

25 Q. Okay. Did Mr. Zheleznyak tell

1 VARSHAVSKY

2 you that those were the purposes that the
3 bank was going to use the money for when
4 you negotiated the rate on the
5 \$19.9 million?

6 A. Mr. Zheleznyak -- Mr. Zheleznyak
7 always was telling me what -- they have
8 two direction: One, it's a bank they
9 using partially for their construction
10 business, some development, some -- some
11 other business, which not related actually
12 to the banking.

13 But some of the money they using
14 for the offshore, how they call, which is
15 controlled and managed by Sergey, because
16 what -- how Zheleznyak explained to me,
17 what -- Zheleznyak runs the banking --
18 bank, and Sergey runs everything which
19 of -- of the bank. He's not do -- he's
20 not doing any work which is related to the
21 bank. He's only controlling all the
22 offshore company.

23 That's why even when they rent
24 the bank -- I mean, the space in our
25 building, Sergey wasn't there; only was

1 VARSHAVSKY

2 Zheleznyak. So nobody knows Leontiev
3 like -- except he's the -- formally the
4 president of the bank. But nobody knows
5 him -- or the person who runs the business
6 day-to-day operation.

7 Q. So it's your testimony that
8 Mr. Zheleznyak told you that Mr. Leontiev
9 had nothing to do with running
10 Probusinessbank?

11 MR. HECKER: Objection to form.
12 Mischaracterizes his testimony.

13 A. No. He said -- he was telling
14 me always he's formally the president of
15 the bank. He got the big -- bigger
16 portion of the bank. But physically,
17 Zheleznyak run the bank. And Mr. Leontiev
18 runs all offshore companies.

19 Q. Okay. Did you ever review a
20 financial statement of Ambika?

21 A. No.

22 Q. This email goes on, "The debt
23 was confirmed by Sergey to a number of
24 people."

25 Is that an accurate statement,

1 VARSHAVSKY

2 as you understand it?

3 A. Yes.

4 Q. What debt are they referring to
5 there -- is Mr. Stahl referring to?

6 A. All the conversation what I have
7 with Mr. Leontiev, it's in London in my
8 office.

9 Q. Apart from the meeting in your
10 office and in London, did you have any
11 communications with Mr. Leontiev after --
12 and the meeting in Gibson Dunn -- after
13 August 2015?

14 A. No.

15 Q. Let's talk about the meeting you
16 had in Moscow with Mr. Leontiev.

17 How did that meeting come about?

18 A. I called Mr. Zheleznyak and
19 asked him to come with Mr. Leontiev,
20 because always Zheleznyak was telling me
21 what -- all the money is secured,
22 guaranteed by Mr. Leontiev. He was even
23 giving me the statement from -- from
24 the -- I don't know which company it was,
25 but the company controlled all this -- I

1 VARSHAVSKY

2 will say -- assets.

3 And they came with Mr. Leontiev.

4 It was -- I don't remember -- five -- it
5 was me, Irina Monakhova, Sergey Leontiev,
6 Zheleznyak -- I think that's it. Maybe
7 somebody -- I don't remember if it's
8 anybody else, but it's not important. We
9 was in the office. And the question was
10 raised, so would they owe us the money,
11 and what's going to be the terms of the
12 repayment of -- payment of the loan back
13 to us.

14 He said, "I know what" -- "I owe
15 you the money, but" -- this was actually
16 about 4:00 or 5:00 in the evening. He
17 said, "I just got up. I need a little bit
18 time. Can we schedule for tomorrow? I
19 will come with a plan how we going to
20 repay the loan back."

21 So several times, he confirmed
22 what he owes the money. He said, "You
23 don't have to worry about. We was taking
24 money -- we was using your money since
25 2008 or even earlier. We never fail. We

1 VARSHAVSKY

2 always was fulfilling our obligation. And
3 you don't have to have any doubts. We
4 will pay you all the money back. So let's
5 schedule for tomorrow."

6 I remember this was a Friday, I
7 believe. So -- and we schedule specially
8 on Saturday to meet again in my office to
9 go with a schedule, which I actually was
10 telling them, "We understand what the
11 situation you have right now. We not
12 desperate. We not in a rush. But only we
13 need the plan, how you going to repay us
14 the money back. Just a plan."

15 He said, "Okay. I will come
16 with a plan tomorrow. We will sit down,
17 and we will -- we will agree."

18 So that's how we left that
19 meeting. It was maybe 15 minutes meeting,
20 maybe 20 -- short meeting. So we agree
21 we'll meet in my office, if I remember
22 correctly, around 2:00 or 3:00. He said,
23 "Because I cannot get up early, so let's
24 meet 2:00 or 3:00."

25 So I -- we agreed. So I call

1 VARSHAVSKY

2 MR. HECKER: You need to wait
3 for him to finish his question and
4 then verbally answer; not "uh-huh."

5 A. Yes. Yes.

6 Q. Okay. Did you ever tell either
7 the lawyers or the finance people at
8 Avilon who were tending to the details of
9 the loan that they should get a written
10 guarantee by Mr. Leontiev?

11 A. No.

12 Q. Okay. Do you know why Avilon
13 got a written guarantee from
14 Probusinessbank but not a written
15 agreement from Mr. Leontiev?

16 A. No.

17 Q. Okay. Did you reach any
18 agreement with Mr. Leontiev as to
19 repayment of any sums at the meeting in
20 your office in Moscow?

21 A. No. He just said, "I need some
22 time. I will come with a plan, and we
23 will sit down, and we will -- we will sign
24 the -- the agreement."

25 Q. Okay. And I think you said that

1 VARSHAVSKY

2 you contend that he told you that he would
3 make a repayment back to us.

4 Who were you representing in the
5 August meeting at your office?

6 A. Avilon, Avagumyan, and Renich.

7 Q. Anyone else?

8 A. No.

9 Q. Okay. And what was the -- you
10 said Mr. Leontiev said, "I owe you the
11 money."

12 Was the amount of the money
13 discussed at the meeting in Moscow?

14 A. Yeah, I assume, yes, absolutely.

15 Q. And what amount of money was
16 discussed at the meeting in Moscow?

17 A. I don't remember right now.

18 Q. Did Mr. Leontiev at the meeting
19 say -- say that he owed a particular sum
20 of money?

21 A. I don't remember right now
22 exactly. But what I can confirm, he never
23 say he -- he never say no.

24 Q. Okay.

25 A. He always confirm what's been

1 VARSHAVSKY

2 Q. Okay. How long did the London
3 meeting go for?

4 A. Maybe one hour.

5 Q. Okay. Was any agreement reached
6 at the London meeting?

7 A. Always we reaching the same
8 agreement -- that he owes the money and he
9 will pay the money back.

10 Q. Did you reach any agreement on
11 the terms by which Mr. Leontiev would --
12 would repay the money?

13 A. He -- we did not reach the
14 agreement at that point, because what he
15 was proposing what he's going to pay in
16 certain installment and what we've been
17 asking, just as you just mentioned, some
18 guarantee, collateral.

19 Q. And Mr. Leontiev wasn't prepared
20 to give you any guarantee --

21 A. No.

22 Q. -- or any collateral; is that
23 correct?

24 A. No.

25 Q. I think I may have gotten too

1 VARSHAVSKY

2 many negatives in that.

3 Was Mr. Leontiev prepared to
4 give you any collateral at the London
5 meeting?

6 MR. HECKER: Objection to form.

7 A. We did not talk about the
8 collateral.

9 Q. Okay. Did Mr. Leontiev decline
10 to give you any guarantees at the London
11 meeting?

12 A. He declined to give us the
13 personal guarantee.

14 Q. Okay. After the London meeting,
15 did you have any further communications
16 with Mr. Leontiev prior to the meeting at
17 Gibson Dunn?

18 A. No.

19 Q. So between the London meeting
20 and the meeting at Gibson Dunn, you never
21 spoke to Mr. Leontiev on the telephone or
22 in person; correct?

23 A. No. As far as I remember, he
24 was trying to call me, but I don't want to
25 talk to him. I don't know if -- maybe,

1 VARSHAVSKY

2 A. Yes.

3 Q. What is his job title?

4 A. I don't remember.

5 Q. What are his duties?

6 A. Avilon, it's a holding company
7 which includes Avilon, the car sales, and
8 transportation company, logistics company.
9 Avilon -- Karen Avagumyan, he's in charge
10 of the logistics company, which is also
11 part of the Avilon group, not Avilon
12 itself. So we have -- so for you to
13 understand, we have Avilon, like, a
14 holding company.

15 Q. Yes.

16 A. Then we have Avilon sales
17 company. Then we have Auto Logistics.
18 It's a logistics company. It's a
19 different company. But anyway, it's part
20 of the Avilon group. So sometimes maybe
21 you can mix up.

22 Q. So Big Karen is in charge of the
23 Auto Logistics company?

24 A. Absolutely.

25 Q. And is the Auto Logistics

1 VARSHAVSKY

2 management first.

3 Q. I asked a separate question.

4 Who of the Aylon upper
5 management has an initial "A" besides
6 yourself?

7 MR. HECKER: Objection to form.

8 Asked and answered.

9 A. Avagumyan. Two Avagumyan.

10 Q. Okay. And who of Aylon's
11 senior management had authority to direct
12 Yanna Krisiuk to make payments?

13 MR. HECKER: Objection to form.
14 Foundation.

15 A. Shall I answer?

16 MR. HECKER: If you can answer
17 that question as framed.

18 A. If this is referred to
19 Avagumyan, probably him.

20 Q. Okay. Do you know if the funds
21 that were advanced by Probusinessbank to
22 Sanbay were ever repaid?

23 MR. HECKER: Objection to form.
24 Foundation. Mischaracterizes the
25 document and his testimony.

1 VARSHAVSKY

2 A. No idea.

3 Q. Okay. Would this be a good time
4 for lunch?

5 MR. HECKER: Sure.

6 THE VIDEOGRAPHER: This marks
7 the end of Tape No. 2 in the
8 videotaped deposition of Alexander
9 Varshavsky. We're going off the
10 record. The time is 12:44.

11 (Luncheon recess: 12:44 p.m.)

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1 VARSHAVSKY

2 the other is for 400 -- 4 million even,
3 one on the 23rd and one on the 24th.

4 Do you see that?

5 A. Yes.

6 Q. And both of them also indicate
7 that they are for payment under the loan
8 agreement 15/07/15.

9 Do you see that?

10 A. Yes.

11 Q. Okay. Were you aware that
12 \$14.4 million was advanced to Big Karen's
13 company, Sanbay, in mid-July 2015?

14 MR. HECKER: Objection to form.
15 Foundation.

16 A. I don't recall.

17 Q. Do you recall that he was
18 paying -- making progress payments to
19 Benetti for the construction of his yacht
20 at that time?

21 A. Yes.

22 Q. Okay. Do you know if Sanbay has
23 ever repaid that loan?

24 MR. HECKER: Objection to form.
25 Foundation.

1 VARSHAVSKY

2 A. I have no idea.

3 Q. Okay.

4 (PPlaintiff's Exhibit 75, An
5 email, Bates AVPE0001453, was hereby
6 marked for identification, as of this
7 date.)

8 (PPlaintiff's Exhibit 76, An
9 email, Bates AVPE0001439, was hereby
10 marked for identification, as of this
11 date.)

12 A. (Witness perusing document.)

13 Q. Have you had a chance to look at
14 Exhibit 76?

15 A. 75. 76 I'm looking at right
16 now.

17 Q. Yeah. Please take a look at 76.
18 I'm going to come back to 75.

19 A. (Witness perusing document.)
20 Yes.

21 Q. All right. On October 26, 2015,
22 at 11:04 p.m., Ms. --

23 A. 76 or 75?

24 Q. I'm looking at 76 now. I'm
25 sorry. Ms. Monakhova sends an email to

1 VARSHAVSKY

2 (PPlaintiff's Exhibit 82, An
3 email dated November 10, 2016, was
4 hereby marked for identification, as
5 of this date.)

6 THE VIDEOGRAPHER: This marks
7 the beginning of Tape No. 4 in the
8 videotaped deposition of Alexander
9 Varshavsky. We're going on the
10 record. The time is 3:14.

11 BY MR. WEIGEL:

12 Q. Mr. Varshavsky, at the time that
13 Probusinessbank's license was revoked, did
14 Avilon or any of its related companies owe
15 any money to Probusinessbank?

16 A. Yes. Avilon.

17 Q. How much?

18 A. 300 million Rubles.

19 Q. Under what credit facility?

20 A. I don't know.

21 Q. Was that money ever repaid?

22 A. Yes.

23 Q. When?

24 A. As soon as all the assets and
25 obligation being transferred to Bin Bank,

1 VARSHAVSKY

2 owe to the bank or anybody. I think it's
3 more technical transaction than the loan
4 what I was taking. I didn't take any
5 loans.

6 Q. What do you mean a technical
7 transaction?

8 A. We, as Avilon, as a group, have
9 the point of credit limit from the
10 Probusinessbank up to \$100 million. So
11 maybe Avilon was taking some money, some
12 money, they decide, so they're going to
13 put under my name personal. I don't know.
14 I cannot comment on that.

15 Q. Do you not remember borrowing
16 \$22 million from Avilon -- I mean -- from
17 Probusinessbank?

18 A. I never borrow. That's what I'm
19 saying. It's probably the way they
20 structure. But I think Irina, she will
21 better -- she can explain better.

22 Q. Well, is that your signature on
23 the last page?

24 A. I cannot see it. How can I see
25 it? It's hardly to see. If you have a

CERTIFICATION

I, SHARON LENGEL, a Notary Public for
and within the State of New York, do
hereby certify:

That the witness whose testimony as
herein set forth, was duly sworn by me;
and that the within transcript is a true
record of the testimony given by said
witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 16th day of January,
2017.



SHARON LENGEL, RPR, CRR

* * *